

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

MARK WRIGHT,

Petitioner,

v.

**Civil Action No. 3:07cv42
(Judge Bailey)**

**DIVISION OF CORRECTIONS,
JIM RUBENSTEIN, DEPARTMENT
OF PUBLIC SAFETY, STEVEN
CANTERBURY AND THE REGIONAL
JAIL AUTHORITY,**

Respondents.

OPINION/REPORT AND RECOMMENDATION

On April 16, 2007, the *pro se* petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. Because the petitioner did not pay the required filing fee, or file a motion to proceed as a pauper, the Clerk issued a Deficiency Notice on April 17, 2007. In the notice, the petitioner was advised to either pay the required filing fee or file a request to proceed as a pauper within thirty (30) days. Further, the notice advised the petitioner that the failure to timely do so could result in the dismissal of his case.

A review of the file on this date shows that the petitioner has failed to comply with the Clerk's Deficiency Notice. Moreover, the petitioner has not requested an extension of time to do so, nor otherwise explained the reasons for noncompliance. Therefore, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, it is the undersigned's recommendation that the petition be **DISMISSED without prejudice** for the failure to prosecute.

Within ten (10) days after being served with a copy of this Opinion/Report and Recommendation, any party may file with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections shall also be submitted to the Honorable John Preston Bailey, United States District Judge. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to send a copy of this Opinion/Report and Recommendation to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket. The Clerk is further directed to provide copies of this Opinion/Report and Recommendation to all counsel of record, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: September 19, 2007.

/s/ John S. Kaull

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE